IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

L.P.A.No.245 of 2004 in
CWP No.494 of 1986
Date of decision: 22.3.2007

State of Haryana and others

... Appellants.

v.

Rajbala widow of late Dr. Om Parkash Sharma and others.

... Respondents.

CORAM: HON'BLE MR.JUSTICE VIJENDER JAIN,CHIEF JUSTICE.

HON'BLE MR.JUSTICE RAJIVE BHALLA.

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Present: Mr. Randhir Singh, Addl. Advocate General Haryana,
for the appellants.
None for the respondents.

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1. Whether the Reporters of Local News paper may be allowed to see the judgment ?

2. To be referred to the Reporters or not ?

3. Whether the judgment should be reported in the Digest ?

Vijender Jain, Chief Justice (Oral)

Challenge in this letters patent appeal is to the order of the learned Single Judge dated 22.4.2003. Om Parkash Sharma, since deceased, filed a writ petition praying that the order of termination dated 16.9.1985, be quashed. He pleaded that he was appointed as Medical Officer in HCMS-II on ad hoc basis by the Director Health Services

Haryana, vide order dated 4.11.1978. He continued to work on the said post on ad hoc basis. Vide order dated 25.10.1981, his ad hoc service was got approved by the Government from Haryana Public Service Commission who recommended that his service may continue till regular appointee become available. On 16.9.1985, Dr. Om Parkash's services were terminated. Alleging that his services were terminated in violation of the terms and conditions of his appointment, as no regular appointee of the Public Service Commission, was available Dr.Sharma filed a writ petition. The respondents contested the claim by pleading that services were terminated because he absented himself from duty and it was not necessary for the respondents to hold an inquiry against the alleged misconduct.

Dr.Om Parkash Sharma, on the other hand, pleaded that his salaries were withheld for two months forcing him to proceed on leave for which he submitted application for leave which were disregarded by the appellants.

Learned Single Judge upon consideration of the facts, noticed that para 4 of the reply was evasive as it was not specifically denied that he was forced to go on leave for failure of the respondents to pay his salary. It was also specifically noticed that the averments in the reply, that the period of April and May 1985 was ordered to be treated as one without pay, wa not substantiated by any order, relied upon or annexed with the reply. The learned Single Judge allowed the writ petition and taking notice of the fact that Dr. Om Parkash Sharma had expired during the pendency of the writ petition on 13.6.1988, directed that his legal representatives shall be entitled for the salary and other benefits available to the respondent.

Learned counsel for the appellants states that during the months

of April and May 1985, Dr. Om Parkash Sharma, remained absent for different periods of time and as such he was not allowed to draw his salary for the months of April and May 1985. His services were, therefore, terminated as per terms and conditions of his appointment i.e. after issuing a 24 hours notice. It is contended that as Dr. Sharma was an ad hoc employee, no inquiry was necessary and, therefore, the order of the learned Single Judge be set aside.

We have heard learned counsel for the appellant, perused the paper book and the impugned order.

We find no illegality or infirmity in the impugned order. Dr. Om Parkash Sharma passed away on 13.6.1988, during the pendency of the petition. The impugned order was passed as a measure of punishment, for his alleged absence from duty. This fact is admitted by the respondents-appellants in the reply filed to the writ petition. Consequently, the learned Single Judge rightly accepted the writ petition. Even otherwise, Dr.Om Parkash Sharma expired on 13.6.1988 and the benefits received by his legal representatives are nominal and, therefore, we do not propose to examine the matter any further.

Dismissed.

(VIJENDER JAIN)
CHIEF JUSTICE

(RAJIVE BHALLA)
JUDGE

March 22, 2007
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